1949.

File No. O. Guj Univ /
Legal Department-
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Subject:—

Opinion under the

Gujerath University Act 194

V 73
(E)

(2) Gujarat University 51/49 O/L

C O N T E N T S.

Legal Department File No. G. Guj. University/40

Sr. No.	R. I. / G. No.	Subject	Pages.
		Opinions under the Gujarth University Act, 1949.	
1.	14083 17/12/1949	Sections 8, 12(1) and (2) (a) Whether Doctor can be appointed before the Senate is constituted and it frames statutes regarding the same	1-4.

xx. G/G.

Office of the Rector.

Under section 8 of the Gujarat University Act, 1949, the Rector, if any, is an officer of the University. Under clause (vi) of that section such other officers in the service of the University as may be declared by the statutes to be officers of the University, are also reckoned among the officers of the University. Section 12(1) of the Act provides that the Rector shall be appointed by the Chancellor on the recommendation of the Vice-Chancellor, and his emoluments and conditions of service shall be determine by the statutes. Under sub-section (2) of section 8 powers conferred on the Vice-Chancellor by or under this Act shall, subject to the control of the Vice-Chancellor, also be exercisable so far as may be by the Rector. Section 64 of the Act provides that at any time after the passing of this Act until such time as the authorities of the University shall commence to exercise their functions, any officer of the University may be appointed by the Vice-Chancellor with the previous sanction of the Chancellor, and that any appointment so made shall be for such period not exceeding three years and on such conditions as the appointing authority thinks fit, provided that no such appointment shall be made until financial provision has been made therefore. It would not be legally possible to invoke the aid of section 64(1)(a) for the purpose of making the appointment of a Rector. In the first place the word "officer" occurring in clause (a) of section 64(1) must be given the meaning of an officer who is already created a statu-

tutory officer under section 8. The words "Rector, if any," occurring in clause (iii) of section 8 show that the Act does not create the Rector as a statutory officer. The Rector's post has to be brought into existence, and that can only be done when statutes concerning his emoluments and conditions of service are made. Such statutes cannot be made at this stage. The same remarks would naturally apply to the officers mentioned in clause (vi) of section 8. Secondly, section 12 contemplates that the Rector shall be appointed by the Chancellor, whereas section 64(1)(n) empowers the Vice-Chancellor to appoint all officers. The Rector is the next highest officer to the Vice-Chancellor himself, and that is why the Act requires that he shall be appointed by the Chancellor. That provision cannot be whittled down during the transitory period by conferring that power upon the Vice-Chancellor. There is substantial difference between the Chancellor making the appointment on the recommendation of the Vice-Chancellor and the Vice-Chancellor making the appointment with the previous sanction of the Chancellor. It is also worthwhile to add that among the transitory provisions, none has been taken to appoint the first Registrar who is an officer lower in dignity than the Rector. Finally, the transitory provision contemplates that the first Vice-Chancellor shall exercise certain functions. Those functions cannot be got delegated to the Rector by the intervention of section 12.

2. For all these reasons, I am of opinion that the appointment of a Doctor is not feasible at this stage, but must await the constitution of the authorities and statutes to be made by them to that purpose.

Sd/- P. N. Lal,

Secretary of Legal Affairs.

U. O. to S.D., No. 14083, dated the 17th December 1949.

Submitted for signature.

Koshal
16/12.

A.A.G. Sd/-
16/12

A.L.B. B.K.
16/12.

R.L.A.

Issued

C.S.P.
17/12.